

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN DONNELLY, a/k/a KAWS, and KAWS,
INC.,

Plaintiffs,

21-cv-9562 (PKC)

-against-

ORDER

JONATHAN ANAND, d/b/a Homeless
Penthouse, Penthouse Theory, Hideout.NYC,
Incognito and Young Neon, DAVID KANG,
DYLAN JOVAN LEONG YI ZHI, THE
PENTHOUSE THEORY, THE PENTHOUSE
COLLECTIVE and OSELL DINODIRECT
CHINA LIMITED,

Defendants.

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CASTEL, U.S.D.J.

This Lanham Act and Copyright Act action was commenced in November 2021. Defendants Dylan Jovan Leong Yi Zhi (“Leong”), The Penthouse Theory and The Penthouse Collective (the “Singapore Defendants”) moved to dismiss the Complaint, citing purportedly defective service of process, a claim that personal jurisdiction was lacking and the invocation of the doctrine of forum non conveniens. The Court denied their motion in an Opinion and Order of September 22, 2022. Thereafter, the Court granted a request by the Singapore Defendants for an extension of their time to answer or move and set a conference for November 14, 2022.

Counsel for the Singapore Defendants then moved to withdraw. As noted in the Court’s Order of November 14, 2022 “The Attorney states that he has been instructed by the Clients not to answer the Complaint, despite an obligation under the Federal Rules of Civil Procedure to do so, and also has not been paid by the Clients.” No opposition to the motion to

withdraw was filed. The Court granted the motion to withdraw and set a conference for January 17, 2023 at 2 p.m.

The Court explained in the November 14 Order that the conference would take place in Courtroom 11D of the Courthouse at 500 Pearl Street. It explained that the two apparent entities could only appear by a lawyer admitted to practice in this Court but that Leong, as a natural person, could appear in person. The consequences of non-appearance were explained in plain language in solid capital letters in boldface.

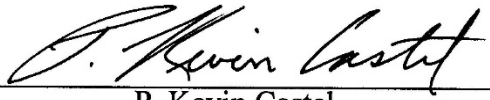
At 1:06 p.m. today, the last business day before the conference, Leong has sent an email to the Court¹ seeking an adjournment. He alternatively seeks a telephone conference. He now claims that he cannot attend in person because he is a student living in Singapore without resources to fly to New York. Leong, who notes that he is 9521 miles away, most certainly knew prior to today that he had absolutely no plans to come to New York no matter how the Court ruled.

Leong subscribes his email with his name and that of The Penthouse Theory and The Penthouse Collective, the two apparent entities. To the extent the entities seek an adjournment, they are not represented, and the request is DENIED.

With respect to Leong, his application to adjourn is also DENIED but he may participate by telephone. Dial-In No: 1-888-363-4749, Access Code: 3667981.

¹ Communications with the Court should be by letter copied to opposing counsel. See Individual Practices at 1.A.i. A request for an adjournment requires conferral with opposing counsel. Id. at B.iv.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
January 13, 2023